

STATE OF COLORADO

STATE PERSONNEL BOARD

The Chancery Building
1120 Lincoln Street, Suite 1420
Denver, Colorado 80203
(303) 894-2136
(303) 894-2147 (FAX)



Bill Owens
Governor

AGENDA PUBLIC BOARD MEETING October 15, 2002

A public meeting of the State Personnel Board will be held on Tuesday, October 15, 2002, at the State Personnel Board, Chancery Building, 1120 Lincoln Street, Suite 1420, Denver, Colorado 80203. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-894-2136 by October 10, 2002.

* * * * *

I. REQUESTS FOR RESIDENCY WAIVERS

- A. October 1, 2002 Report on Residency Waivers.

Reports are informational only; no action is required.

II. PENDING MATTERS

- A. Outstanding Motions

1. Eileen Rodgers v. Department of Regulatory Agencies, Board of Nursing, State Personnel Board case number 2001B087(C).

On June 4, 2001, the Administrative Law Judge issued a Dismissal Order, granting Respondent's motion to dismiss but denying Respondent's request for attorney fees. On November 23, 2001, the Board issued its Order of the State Personnel Board, adopting the Dismissal Order and granting attorney fees to Respondent. On August 29, 2002, Respondent filed Respondent's Motion regarding Attorney Fees. No response was filed by Complainant.

2. Michael Rura v. Department of Higher Education, State Board of Agriculture, Colorado State University, State Personnel Board case number 2001G117.

On April 14, 2002, the Initial Decision was issued by the Administrative Law Judge. The Order of the State Personnel Board was issued on August 22, 2002. On October 3, 2002, Respondent filed Respondent's Motion for Stay Pending Appeal.

B. Petitions for Declaratory Order

1. Petition for Declaratory Order of Jeremiah M. Attridge v. Department of Personnel and Administration, State Personnel Board case number 2003D002.

On September 17, 2002, Jeremiah M. Attridge filed a Petition for Declaratory Order, requesting "injunctive relief regarding the stated plans of the Director of the Department of Personnel to deduct \$10.00 per month from Petitioner's paycheck for a 'Self-Funding Assessment.'"

2. Petition for Declaratory Order of Jeremiah M. Attridge v. Department of Personnel and Administration, State Personnel Board case number 2003D003.

On September 23, 2002, Jeremiah M. Attridge filed a Petition for Declaratory Order, requesting clarification of Board Rules and Administrative Procedures pertaining to Petitioner's right to utilize the grievance process regarding his annual performance rating.

C. Cases on Remand from the Court of Appeals

1. Terry v. Department of Public Health and Environment, State Personnel Board Case No. 2001G051, Court of Appeals No. 01CA993.

On March 29, 2001, a Preliminary Recommendation of the Administrative Law Judge was issued recommending that a hearing be denied and that the Board award attorney fees to Respondent against Complainant's counsel. On April 17, 2001, the Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge, including the award of attorney fees to Respondent against Complainant's counsel. Upon appeal by Complainant, the Court of Appeals remanded the matter to the Board by Mandate dated September 27, 2002.

D. Retention Area Requests

1. Department of Agriculture

On October 1, 2002, the Department of Agriculture renewed its July 22, 2002 Retention Area Request.

2. Department of Personnel and Administration

III. **REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD**

- A. Blair Williams v. Department of Corrections, Colorado Territorial Correctional Facility, State Personnel Board case number 2002B057.

On May 7, 2002, the Initial Decision of the Administrative Law Judge was issued. On September 23, 2002, Complainant filed his Brief. Respondent's Answer Brief on Appeal was filed on September 30, 2002.

IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING

- A. Okechukwu B. Asobie v. Department of Higher Education, University of Colorado Health Sciences Center, State Personnel Board case number 2001G084.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review his termination as a probationary employee for unsatisfactory performance. On October 2, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- B. Robert Brown v. Department of Public Safety, Colorado Bureau of Investigation, State Personnel Board case number 2002G090.

Complainant petitions the State Personnel Board to grant a discretionary evidentiary hearing to review the Colorado Bureau of Investigation's response to Complainant's grievance. On October 2, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

- C. Manuel Gonzales, Roberta Lucero, Augustin Quinonez & Raymond Owens v. Regents of the University of Colorado, University of Colorado Health Science Center, State Personnel Board case number 2002G144.

Complainants petition the State Personnel Board to grant a discretionary evidentiary hearing to review the University of Colorado Health Science Center's denial of their grievances. On October 2, 2002, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES

- A. Hubert Barton v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2002B084.

On September 23, 2002, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's disciplinary termination of Complainant was not arbitrary, capricious or contrary to rule or law; ordered that Respondent's action is affirmed; and dismissed Complainant's appeal with prejudice. Attorney fees and costs are not awarded.

- B. Karen Langfield v. Department of Human Services, Division of Youth Corrections, Phillip P. Gilliam Youth Services Center, State Personnel Board case number 2001B093.

On September 24, 2002, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's administrative discharge of Complainant was not arbitrary, capricious or contrary to rule or law; ordered that Respondent's action is affirmed; and dismissed Complainant's appeal with prejudice.

- C. Omar Jah Rocwa v. Department of Higher Education, Colorado Student Loan Program, State Personnel Board case number 2001B041.

On September 25, 2002, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's disciplinary termination of Complainant was not arbitrary, capricious or contrary to rule or law; ordered that

Respondent's action is affirmed; and dismissed Complainant's appeal with prejudice. Neither party is entitled to an award of attorney fees and costs.

- D. Denise Sanders v. Department of Corrections, State Personnel Board case number 2002G079.

On October 2, 2002, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's termination of Complainant during the probationary period was not arbitrary, capricious or contrary to rule or law; ordered that Respondent's action is affirmed; and dismissed Complainant's appeal with prejudice.

VI. REVIEW OF THE MINUTES FROM THE SEPTEMBER 17, 2002 PUBLIC MEETING OF THE STATE PERSONNEL BOARD

VII. ACKNOWLEDGMENTS

DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS SEPTEMBER 17, 2002 PUBLIC MEETING:

- A. Letter re Retention Areas of Department of Agriculture and Department of Personnel and Administration.

The Board (1) voted to table consideration of the above-referenced matters to the next meeting when the Department of Agriculture and the Department of Personnel and Administration will brief the Board concerning factors relevant to their requests, pursuant to the Technical Assistance - Retention Area Requests; and (2) directed the Director to make the revisions to the Technical Assistance - Retention Area Requests, circulate the guidelines as revised, and post them on the website with the other technical assistance guidelines.

- B. Eileen Rodgers v. Department of Regulatory Agencies, Board of Nursing, State Personnel Board case number 2001B106.

The Board voted to affirm the award of attorney fees and costs by the Administrative Law Judge as a final agency action.

- C. Sara Shipley v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2001G029.

The Board voted to reject the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

- D. John R. Martin v. Department of Corrections, Sterling Correctional Facility, State Personnel Board case number 2002B063.

The Board voted to adopt the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge and to adopt the Initial Decision.

- E. Irvin Lee Hendrix v. Department of Corrections, Volunteer Services Administration, State Personnel Board case number 2002G091.

The Board voted to adopt the Dismissal Order.

- F. Steven Dean Pontius v. Department of Corrections, San Carlos Correctional Facility, State Personnel Board case number 2001B090.

The Board voted to grant Respondent's Motion to Dismiss.

VIII. REPORT OF THE STATE PERSONNEL DIRECTOR

Paul Farley, Deputy Executive Director - Presentation on Senior Executive Service (SES)

IX. ADMINISTRATIVE MATTERS & COMMENTS

A. ADMINISTRATIVE MATTERS

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Notice of Public Hearing - Adoption of Permanent Administrative Procedures
- Mandate - Order Affirmed, Keegan v. Department of Public Health and Environment, State Personnel Board Case No. 2001G056, Court of Appeals No. 01CA1280

B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC

X. EXECUTIVE SESSION

A. Case Status Report

B. Minutes of the September 2002 Executive Session

* * *

NEXT REGULARLY SCHEDULED BOARD MEETINGS**9:00 a.m.**

<u>Date</u>	<u>Location</u>
November 19, 2002	State Personnel Board Chancery Building 1120 Lincoln Street, Suite 1420 Denver, CO 80203
December 17, 2002	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
January 21, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
February 18, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
March 18, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
April 15, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
May 20, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222
June 17, 2003	Colorado Department of Transportation Auditorium 4201 East Arkansas Ave. (2nd Floor) Denver, CO 80222